

Michigan Department of Licensing and Regulatory Affairs
Office of Regulatory Reinvention
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REGULATORY IMPACT STATEMENT (RIS)
and
COST-BENEFIT ANALYSIS

PART 1: INTRODUCTION

In accordance with the Administrative Procedures Act (APA) [1969 PA 306], the department/agency responsible for promulgating the administrative rules must complete and submit this form electronically to the Office of Regulatory Reinvention (ORR) no less than (28) days before the public hearing [MCL 24.245(3)-(4)]. Submissions should be made by the departmental Regulatory Affairs Officer (RAO) to **orr@michigan.gov**. The ORR will review the form and send its response to the RAO (see last page). Upon review by the ORR, the agency shall make copies available to the public at the public hearing [MCL 24.245(4)].

Please place your cursor in each box, and answer the question completely.

ORR-assigned rule set number:

2016-022 LR

ORR rule set title:

Board of Mechanical Rules – License Examination Procedures

Department:

Department of Licensing and Regulatory Affairs

Agency or Bureau/Division

Bureau of Construction Codes/Mechanical Division

Name and title of person completing this form; telephone number:

Shannon Matsumoto, Rules Specialist (517) 241-6312

Reviewed by Department Regulatory Affairs Officer:

PART 2: APPLICABLE SECTIONS OF THE APA

MCL 24.207a “Small business” defined.

Sec. 7a.

“Small business” means a business concern incorporated or doing business in this state, including the affiliates of the business concern, which is independently owned and operated and which employs fewer than 250 full-time employees or which has gross annual sales of less than \$6,000,000.00.”

MCL 24.240 Reducing disproportionate economic impact of rule on small business; applicability of section and MCL 24.245(3).

Sec. 40.

(1) When an agency proposes to adopt a rule that will apply to a small business and the rule will have a disproportionate impact on small businesses because of the size of those businesses, the agency shall consider exempting small businesses and, if not exempted, the agency proposing to adopt the rule shall reduce the economic impact of the rule on small businesses by doing all of the following when it is lawful and feasible in meeting the objectives of the act authorizing the promulgation of the rule:

- (a) Identify and estimate the number of small businesses affected by the proposed rule and its probable effect on small businesses.
- (b) Establish differing compliance or reporting requirements or timetables for small businesses under the rule after projecting the required reporting, record-keeping, and other administrative costs.
- (c) Consolidate, simplify, or eliminate the compliance and reporting requirements for small businesses under the rule and identify the skills necessary to comply with the reporting requirements.
- (d) Establish performance standards to replace design or operational standards required in the proposed rule.

(2) The factors described in subsection (1)(a) to (d) shall be specifically addressed in the small business impact statement required under section 45.

(3) In reducing the disproportionate economic impact on small business of a rule as provided in subsection (1), an agency shall use the following classifications of small business:

- (a) 0-9 full-time employees.
- (b) 10-49 full-time employees.
- (c) 50-249 full-time employees.

(4) For purposes of subsection (3), an agency may include a small business with a greater number of full-time employees in a classification that applies to a business with fewer full-time employees.

(5) This section and section 45(3) do not apply to a rule that is required by federal law and that an agency promulgates without imposing standards more stringent than those required by the federal law.

MCL 24.245 (3) “Except for a rule promulgated under sections 33, 44, and 48, the agency shall prepare and include with the notice of transmittal a **regulatory impact statement** containing...” (information requested on the following pages).

[**Note:** Additional questions have been added to these statutorily-required questions to satisfy the **cost-benefit analysis** requirements of Executive Order 2011-5.]

MCL 24.245b Information to be posted on office of regulatory reinvention website.

Sec. 45b. (1) The office of regulatory reinvention shall post the following on its website within 2 business days after transmittal pursuant to section 45:

- (a) The regulatory impact statement required under section 45(3).
 - (b) Instructions on any existing administrative remedies or appeals available to the public.
 - (c) Instructions regarding the method of complying with the rules, if available.
 - (d) Any rules filed with the secretary of state and the effective date of those rules.
- (2) The office of regulatory reinvention shall facilitate linking the information posted under subsection (1) to the department or agency website.

PART 3: DEPARTMENT/AGENCY RESPONSE

Please place your cursor in each box, and provide the required information, using complete sentences. Please do not answer the question with “N/A” or “none.”

Comparison of Rule(s) to Federal/State/Association Standards:

(1) Compare the proposed rule(s) to parallel federal rules or standards set by a state or national licensing agency or accreditation association, if any exist. Are these rule(s) required by state law or federal mandate? If these rule(s) exceed a federal standard, please identify the federal standard or citation, and describe why it is necessary that the proposed rule(s) exceed the federal standard or law, and specify the costs and benefits arising out of the deviation.

There are no federal rules or standards that regulate construction codes. The proposed rules update the Board of Mechanical Rules – License Examination Procedures rules.

(2) Compare the proposed rule(s) to standards in similarly situated states, based on geographic location, topography, natural resources, commonalities, or economic similarities. If the rule(s) exceed standards in those states, please explain why, and specify the costs and benefits arising out of the deviation.

The proposed rules do not exceed standards in similarly situated states.

(3) Identify any laws, rules, and other legal requirements that may duplicate, overlap, or conflict with the proposed rule(s). Explain how the rule has been coordinated, to the extent practicable, with other federal, state, and local laws applicable to the same activity or subject matter. This section should include a discussion of the efforts undertaken by the agency to avoid or minimize duplication.

Rules **R 338.903, R 338.908, and R 338.911** exceed the scope of authority of MCL 338.975, Section 5 of the Forbes Mechanical Contractors Act, 1984 PA 192.

Purpose and Objectives of the Rule(s):

(4) Identify the behavior and frequency of behavior that the proposed rule(s) are designed to alter. Estimate the change in the frequency of the targeted behavior expected from the proposed rule(s). Describe the difference between current behavior/practice and desired behavior/practice. What is the desired outcome?

The rules as written place an undue burden on the individual applying for the mechanical licensing examination. As written, the rules severely limit the ability for applicants to be eligible for examination and licensure. Rescind Rules **R 338.903, R 338.908, and R 338.911** which exceed statutory authority in MCL 338.975 and eliminate the additional requirements of these rules.

(5) Identify the harm resulting from the behavior that the proposed rule(s) are designed to alter and the likelihood that the harm will occur in the absence of the rule. What is the rationale for changing the rule(s) and not leaving them as currently written?

The rules exceed the authority of the Forbes Mechanical Contractors Act, 1984 PA 192, and, as written, place additional and undue burden on applicants.

(6) Describe how the proposed rule(s) protect the health, safety, and welfare of Michigan citizens while promoting a regulatory environment in Michigan that is the least burdensome alternative for those required to comply.

Rules **R 338.903, R 338.908, and R 338.911** exceed the scope of authority of MCL 338.975, Section 5 of the Forbes Mechanical Contractors Act, 1984 PA 192, and will be rescinded. Rescission of these rules removes the undue burden on applicants to list specific details to work performed and to obtain notarized statements from employers regarding the required experience in order to be eligible for examination.

(7) Describe any rules in the affected rule set that are obsolete, unnecessary, and can be rescinded.

Rules **R 338.903, R 338.908, and R 338.911** exceed the scope of authority of MCL 338.975, Section 5 of the Forbes Mechanical Contractors Act, 1984 PA 192, and can be rescinded.

Fiscal Impact on the Agency:

Fiscal impact is an increase or decrease in expenditures from the current level of expenditures, i.e. hiring additional staff, an increase in the cost of a contract, programming costs, changes in reimbursement rates, etc. over and above what is currently expended for that function. It would not include more intangible costs or benefits, such as opportunity costs, the value of time saved or lost, etc., unless those issues result in a measurable impact on expenditures.

(8) Please provide the fiscal impact on the agency (an estimate of the cost of rule imposition or potential savings on the agency promulgating the rule).

Outside of the saving of staff time for processing examination applications and results, rescission of rules **R 338.903, R 338.908, and R 338.911** will not result in an increase or decrease in expenditures from the current level of expenditures.

(9) Describe whether or not an agency appropriation has been made or a funding source provided for any expenditures associated with the proposed rule(s).

No agency appropriation has been made or funding source provided as there are no expenditures associated with the proposed rules.

(10) Describe how the proposed rule(s) is necessary and suitable to accomplish its purpose, in relationship to the burden(s) it places on individuals. Burdens may include fiscal or administrative burdens, or duplicative acts. So despite the identified burden(s), identify how the requirements in the rule(s) are still needed and reasonable compared to the burdens.

Rescission of rules **R 338.903, R 338.908, and R 338.911** is necessary as they exceed the authority of the Forbes Mechanical Contractors Act, 1984 PA 192. This will relieve burdens on individuals as it will eliminate unnecessary review of documentation which is not required by statute.

Impact on Other State or Local Governmental Units:

(11) Estimate any increase or decrease in revenues to other state or local governmental units (i.e. cities, counties, school districts) as a result of the rule. Estimate the cost increases or reductions on other state or local governmental units (i.e. cities, counties, school districts) as a result of the rule. Please include the cost of equipment, supplies, labor, and increased administrative costs, in both the initial imposition of the rule and any ongoing monitoring.

There is no estimated increase or decrease in revenues to other state or local governmental units as a result of the rules revision.

(12) Discuss any program, service, duty or responsibility imposed upon any city, county, town, village, or school district by the rule(s). Describe any actions that governmental units must take to be in compliance with the rule(s). This section should include items such as record keeping and reporting requirements or changing operational practices.

There is no program, service, duty or responsibility imposed upon any city, county, town, village, or school district by the rule(s).

(13) Describe whether or not an appropriation to state or local governmental units has been made or a funding source provided for any additional expenditures associated with the proposed rule(s).

There are no additional expenditures associated with the proposed rules.

Rural Impact:

(14) In general, what impact will the rules have on rural areas? Describe the types of public or private interests in rural areas that will be affected by the rule(s).

The proposed rules will have no adverse impact on rural areas.

Environmental Impact:

(15) Do the proposed rule(s) have any impact on the environment? If yes, please explain.

The proposed rules have no impact on the environment.

Small Business Impact Statement:

[Please refer to the discussion of “small business” on page 2 of this form.]

(16) Describe whether and how the agency considered exempting small businesses from the proposed rules.

It is unnecessary to exempt small businesses as the proposed rules have no adverse impact on small business.

(17) If small businesses are not exempt, describe (a) the manner in which the agency reduced the economic impact of the proposed rule(s) on small businesses, including a detailed recitation of the efforts of the agency to comply with the mandate to reduce the disproportionate impact of the rule(s) upon small businesses as described below (in accordance with MCL 24.240(1)(A-D)), or (b) the reasons such a reduction was not lawful or feasible.

The proposed rules place no disproportionate impact upon small business.

(A) Identify and estimate the number of small businesses affected by the proposed rule(s) and the probable effect on small business.

Most if not all of the licensed mechanical contractors in Michigan are small businesses. Rescission of these rules will make it easier for small businesses to have employees apply for and be approved to take the mechanical contractors examinations.

(B) Describe how the agency established differing compliance or reporting requirements or timetables for small businesses under the rule after projecting the required reporting, record-keeping, and other administrative costs.

There is no need for differing compliance or reporting requirements or timetables for small businesses.

(C) Describe how the agency consolidated or simplified the compliance and reporting requirements and identify the skills necessary to comply with the reporting requirements.

It is not practical to establish differing compliance or reporting requirements or timetables for small businesses. Small businesses are not expected to be adversely affected by these rules. There are no additional reporting, record keeping, or other administrative costs associated with the implementation of the proposed rules.

(D) Describe how the agency established performance standards to replace design or operation standards required by the proposed rules.

The examination application was modified to remove the additional requirements placed on the applicants.

(18) Identify any disproportionate impact the proposed rule(s) may have on small businesses because of their size or geographic location.

The proposed rules place no disproportionate impact upon small business.

(19) Identify the nature of any report and the estimated cost of its preparation by small business required to comply with the proposed rule(s).

There are no reports required to comply with the proposed rules.

(20) Analyze the costs of compliance for all small businesses affected by the proposed rule(s), including costs of equipment, supplies, labor, and increased administrative costs.

There is no cost of compliance for small businesses.

(21) Identify the nature and estimated cost of any legal, consulting, or accounting services that small businesses would incur in complying with the proposed rule(s).

There is no legal, consulting, or accounting services required to comply with the proposed rules.

(22) Estimate the ability of small businesses to absorb the costs without suffering economic harm and without adversely affecting competition in the marketplace.

There are no costs related for compliance with the rules.

(23) Estimate the cost, if any, to the agency of administering or enforcing a rule that exempts or sets lesser standards for compliance by small businesses.

The proposed rules do not exempt or set lesser standards for small businesses and no additional costs are placed on the agency administering and enforcing the rules.

(24) Identify the impact on the public interest of exempting or setting lesser standards of compliance for small businesses.

The proposed rules do not exempt or set lesser standards for small businesses and the law does not allow different standards for small businesses.

(25) Describe whether and how the agency has involved small businesses in the development of the proposed rule(s). If small business was involved in the development of the rule(s), please identify the business(es).

Small businesses were not involved in the development of the proposed rules.

Cost-Benefit Analysis of Rules (independent of statutory impact):

(26) Estimate the actual statewide compliance costs of the rule amendments on businesses or groups. Identify the businesses or groups who will be directly affected by, bear the cost of, or directly benefit from the proposed rule(s). What additional costs will be imposed on businesses and other groups as a result of these proposed rules (i.e. new equipment, supplies, labor, accounting, or recordkeeping)? Please identify the types and number of businesses and groups. Be sure to quantify how each entity will be affected.

The agency does not anticipate any compliance costs related to the rule amendments. Individuals applying for the mechanical licensing examination will benefit from the rule amendments as this removes an undue burden on the applicant.

(27) Estimate the actual statewide compliance costs of the proposed rule(s) on individuals (regulated individuals or the public). Please include the costs of education, training, application fees, examination fees, license fees, new equipment, supplies, labor, accounting, or recordkeeping). How many and what category of individuals will be affected by the rules? What qualitative and quantitative impact does the proposed change in rule(s) have on these individuals?

The proposed rules will not result in statewide compliance costs of these rule amendments on businesses or groups. Individuals gaining experience in the mechanical trade will be relieved of the additional unauthorized burden the rules placed on the application process.

(28) Quantify any cost reductions to businesses, individuals, groups of individuals, or governmental units as a result of the proposed rule(s).

All involved stakeholders should experience an undeterminable cost reduction as the result of less regulatory burden.

(29) Estimate the primary and direct benefits and any secondary or indirect benefits of the proposed rule(s). Please provide both quantitative and qualitative information, as well as your assumptions.

The proposed rules will provide a less restrictive means of applying for and being approved for the mechanical contractors licensing examination and will be in line with the statutory authority of the Forbes Mechanical Contractors Act, 1984 PA 192.

(30) Explain how the proposed rule(s) will impact business growth and job creation (or elimination) in Michigan.

Rescission of the rules will provide a less restrictive means of applying for and being approved for the mechanical contractors licensing examination, thus allowing for greater business growth and job creation.

(31) Identify any individuals or businesses who will be disproportionately affected by the rules as a result of their industrial sector, segment of the public, business size, or geographic location.

The Bureau does not expect any business or individual to be disproportionately affected by these proposed rules.

(32) Identify the sources the agency relied upon in compiling the regulatory impact statement, including the methodology utilized in determining the existence and extent of the impact of a proposed rule(s) and a cost-benefit analysis of the proposed rule(s). How were estimates made, and what were your assumptions? Include internal and external sources, published reports, information provided by associations or organizations, etc., which demonstrate a need for the proposed rule(s).

The initial discovery occurred in 2015 when the agency went through the RPM process of evaluating their forms and processes. The other findings took place as the agency was updating its software

program to the Accela platform. The Bureau assumes less restrictions will lead to lower undeterminable costs for all involved stakeholders.

Alternatives to Regulation:

(33) Identify any reasonable alternatives to the proposed rule(s) that would achieve the same or similar goals. In enumerating your alternatives, please include any statutory amendments that may be necessary to achieve such alternatives.

No reasonable alternatives to the proposed rules have been identified that would achieve the same or similar goals. Rules **R 338.903, R 338.908, and R 338.911** exceed the scope of authority of MCL 338.975, Section 5 of the Forbes Mechanical Contractors Act, 1984 PA 192. The statute would need to be revised to allow for the authority imposed by the rules being rescinded.

(34) Discuss the feasibility of establishing a regulatory program similar to that proposed in the rule(s) that would operate through private market-based mechanisms. Please include a discussion of private market-based systems utilized by other states.

There is no feasibility of establishing a regulatory program through private market-based mechanisms. The proposed rules are implemented through the regulatory requirements of the Forbes Mechanical Contractors Act, 1984 PA 192, at the state level. Rules **R 338.903, R 338.908, and R 338.911** exceed the scope of authority of MCL 338.975, Section 5 of the Forbes Mechanical Contractors Act, 1984 PA 192, and will be rescinded. The Bureau is unaware of any private market-based systems utilized by other states.

(35) Discuss all significant alternatives the agency considered during rule development and why they were not incorporated into the rule(s). This section should include ideas considered both during internal discussions and discussions with stakeholders, affected parties, or advisory groups.

There are no alternatives to be incorporated. Rules **R 338.903, R 338.908, and R 338.911** exceed the scope of authority of MCL 338.975, Section 5 of the Forbes Mechanical Contractors Act, 1984 PA 192. The agency discovered they had exceeded the statutory authority. The initial discovery occurred in 2015 when the agency went through the RPM process of evaluating their forms and processes. The other finding took place as the agency was updating its software program to the Accela platform.

Additional Information

(36) As required by MCL 24.245b(1)(c), please describe any instructions regarding the method of complying with the rules, if applicable.

This is not applicable as the rules are being rescinded.

PART 4: REVIEW BY THE ORR

Date Regulatory Impact Statement (RIS) received:

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Date RIS approved:

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ORR assigned rule set number:	
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Date of disapproval:	Explain:
More information needed:	Explain: